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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,918	04/03/2001	William T. Turner	12017-24/JWE	4546

7590

02/24/2003

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EXAMINER

FLETCHER, MARLON T

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/825,918

Applicant(s)

TURNER, WILLIAM T.

Examiner

Marlon T Fletcher

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Terminal Disclaimer***

The disclaimer fee of \$110.00 in accordance with 37 CFR 1.20(d) has not been submitted, nor is there any authorization in the application file to charge a specified Deposit Account or credit card.

The double patenting rejection stands.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 22-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,291,759. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims 22-24 are broader in scope than the patented claims.

It is always considered obvious to broaden the scope of the patented claims. For example, note that instant claim 22 is limited in scope to an upper coil, a lower coil and a flat non-magnetized ferromagnetic plate between the two coils which is a subcombination of patented claim 1.

Claims 22-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,291,758. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant: claims 22-24 are broader in scope than the patented claims.

It is always considered obvious to broaden the scope of the patented claims. For example, note that instant claim 22 is limited in scope to an upper coil, a lower coil and a flat non-magnetized ferromagnetic plate between the two coils which is a subcombination of patented claims 1 and 7.

While this application a division of U.S. Patent 6,291, 758, a clear line of demarcation must be maintained between this application Serial No. 09/954,625 which is a continuation (should be division) of U.S. Patent 6,291,759.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinman '999 or Blucher et al.

Each patent discloses an upper and lower coil, and a single, flat non-magnetized ferromagnetic plate 41 disposed between two coils. Regarding claim 23, each patent discloses at least one magnetic pole piece partially with the upper coil and partially within the lower coil and extending through a hole in the ferromagnetic plate 41. Regarding claim 24, at least one magnetic pole piece extends from above the upper coil. Neither Kinman '999 nor Blucher et al. disclose a completely flat ferromagnetic plate.

However, Anderson '117 discloses a pickup having a upper and lower coil (figures 2 and 4), having a completely flat flexible magnet plate (20) disposed between the two coils.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Anderson with either Kinman'999 or Blucher et al., because Kinman '999 and Blucher et al. provide all of the limitations, except for a completely flat plate. Anderson provides this additional feature for use with a pick up having an upper and lower coil. In view of Anderson, although Anderson does not

disclose ferromagnetic material, it would be obvious to use the teachings with either Kinman or Blucher et al. which do provide ferromagnetic material.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinman '520 or '966 in view of Anderson.

Each patent to Kinman discloses an upper coil 30, a lower coil 20, and a single non-magnetized ferromagnetic plate 41 disposed between two coils. The plate forms part of metallic shield of magnetically permeable material. The material is mild steel and non-magnetized. Neither reference discloses a completely flat plate.

However, Anderson '117 discloses a pickup having a upper and lower coil (figures 2 and 4), having a completely flat flexible magnet plate (20) disposed between the two coils.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Anderson with either Kinman '520 or '966, because Kinman '520 and '966 provide all of the limitations, except for a completely flat plate. Anderson provides this additional feature for use with a pick up having an upper and lower coil. In view of Anderson, although Anderson does not disclose ferromagnetic material, it would be obvious to use the teachings with either Kinman which do provide ferromagnetic material.

***Response to Arguments***

5. Applicant's arguments with respect to claims 22-24 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Marlon T. Fletcher  
Primary Examiner  
Art Unit 2837

MTF  
February 10, 2003